

UNITED STATES DISTRICT COURT  
DISTRICT OF COLORADO  
THE HONORABLE PHILLIP S. FIGA  
901 19th Street, Chambers A638  
303-335-2174

MEMORANDUM

TO: Trial Counsel  
FROM: Judge Phillip S. Figa  
RE: Proposed Jury Instructions

First, and most importantly, counsel for both sides should meet together well in advance of trial and **stipulate to as many proposed jury instructions as possible**. In my experience, it is often possible for trial counsel to stipulate to all stock instructions, and frequently counsel are able to agree on most substantive instructions as well.

**At the time of the Final Trial Preparation Conference**, the parties should deliver to my law clerk three separate sets, or packets, of instructions:

- 1) Stipulated -- This first set should contain instructions to which both plaintiff and defendant have agreed;
- 2) Competing -- This second set should contain instructions on issues where the parties agree an instruction is needed, but disagree on the wording of the instruction; and
- 3) Additional/Non-Stipulated -- This third set should contain any additional instruction which a party requests, but to which the other party objects.

The instructions should **NOT** be numbered and there should be no repetition. That is, if the parties stipulate to a particular instruction, then that instruction should be submitted as a stipulated instruction only, and no similar instruction should appear in either plaintiff's or defendant's set of instructions.

I require two paper copies of each set of proposed instructions. One complete set of all the instructions should be submitted on a computer disk. You must submit these to my law clerk at the Final Trial Preparation Conference (jury instructions are **NOT** filed with the Court Clerk). For the paper copies, one set should have citations listed at the bottom of each instruction and the other should be clean, meaning no citations or titles. My staff will prepare a final clean set to give to the jury following

closing arguments. The set on computer disk should be submitted in **WordPerfect 12**, if possible, and should not contain citations.

In addition, the instructions must conform to the following requirements:

- (1) **Instruction titles:** Each instruction should include only the title "INSTRUCTION NO. \_\_\_\_" at the top -- centered, in all CAPS and not bolded or underlined. DO NOT fill in the numbers, as my law clerk will number the instructions after I have determined the entire set of instructions to be submitted to the jury. Thus, DO NOT entitle an instruction "PLAINTIFF'S INSTRUCTION NO. 4", for example. There should be a two-line break between the title and the text of the instruction.
- (2) **Font:** Instructions should be submitted in **Arial 12 point font**.
- (3) **Line spacing:** Text of the instructions should be **1.5**.
- (4) **Justification:** Except for the centered title explained above, please use a **left margin** justification, not full justification.
- (5) **Saving to disk:** The set of instructions submitted on a disk should be submitted as one continuous document **with hard page breaks between each separate instruction**.
- (6) **CJI:** In a diversity case in which Colorado law applies, I prefer that you submit instructions that conform to the Colorado Jury Instructions (CJI). CJI may also be used for stock instructions in a federal question case.
- (7) **Stylistic conventions:** When referring to this Court in the body of the instructions, always capitalize the word "Court." In addition, do not use articles when referring to the parties. Do capitalize the parties. The preferred format is: "Plaintiff" or "Plaintiff Smith" rather than "the Plaintiff" or "plaintiff Smith."
- (8) **Please Proofread** your submissions carefully.

FOR YOUR REFERENCE, EXAMPLES OF PROPOSED INSTRUCTIONS WITH AND WITHOUT CITATIONS ARE ATTACHED. If the instructions submitted do not conform to these guidelines, they may be returned to you for reformatting.

**Additional Instructions:** If, during the course of trial, you determine that additional instructions are necessary, please provide one paper copy with citations, one paper copy without citations, and a disk to my law clerk as soon as possible. Of course, you must also give a copy to opposing counsel. Please note that my law clerk will be your primary contact for all matters relating to jury instructions.

**Jury Instruction Conference:** We will have an instruction conference shortly before the case goes to the jury, usually during a lunch break or after the jury is excused for the day. If possible, we will provide you with a draft set of instructions ahead of time. At the instruction conference, I will go through the draft set with you and you will have an opportunity to request changes to the proposed instructions. You also will have an opportunity to state objections on the record at the conclusion of the conference.

Please read the above instructions carefully. If you have any questions, you may call the law clerk assigned to your case.

Thank you for your cooperation in ensuring a smooth trial.

INSTRUCTION NO. \_\_\_\_

You are the sole judges of the credibility of the witnesses and the weight to be given their testimony. You should take into consideration their means of knowledge, strength of memory and opportunities for observation; the reasonableness or unreasonableness of their testimony; the consistency or lack of consistency in their testimony; their motives; whether their testimony has been contradicted or supported by other evidence; their bias, prejudice or interest, if any; their manner or demeanor upon the witness stand; and all other facts and circumstances shown by the evidence which affect the credibility of the witnesses.

Based on these considerations, you may believe all, part or none of the testimony of a witness.



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